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2/23/01  
MA

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOHN RICHARD JAE,  
Plaintiff

v.

KENNETH K. KYLER,  
JOHN A. PALAKOVICH,  
WILLIAM J. RHOADES,  
MARTIN DRAGNOVICH,  
OFFICER RUBENDALL, and  
OFFICER RAGER,  
Defendants

CIVIL NO. 1:CV-00-0315

FILED  
HARRISBURG, PA

FEB 23 2001

MARY E. D'ANDREA, CLERK  
Per MA  
Deputy Clerk

ORDER

Before the court is a report of the Magistrate Judge in which he recommends that Plaintiff's motions to remand the captioned action to state court be denied. Plaintiff has filed objections to the report and recommendation.

Plaintiff is a state prisoner who filed an action in state court against officers of the Pennsylvania Department of Corrections. Plaintiff alleges violations of the United States Constitution, among other claims. Defendants removed the captioned action to this court pursuant to 28 U.S.C. § 1441. In his motion to remand, Plaintiff alleges that Defendants have not satisfied 28 U.S.C. § 1446 because they have not stated the grounds for removal.

Plaintiff is in error. The petition for removal is filed pursuant to 28 U.S.C. § 1441 – original jurisdiction. In the petition, Defendants further allege that the federal court has jurisdiction pursuant to 28 U.S.C. § 1331, federal question, and § 1343, civil rights action. Thus, the petition for removal is not defective.

Accordingly, **IT IS HEREBY ORDERED THAT:**

- 1) The court adopts the report and recommendation of Magistrate Judge Smyser.
- 2) Plaintiff's motion for remand is denied.
- 3) This matter is remanded to Magistrate Judge Smyser for further proceedings.

  
SYLVIA H. RAMBO  
United States District Judge

Dated: February **23**, 2001.

UNITED STATES DISTRICT COURT  
FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA

\* \* MAILING CERTIFICATE OF CLERK \* \*

February 23, 2001

Re: 1:00-cv-00315 Jae v. Kyler

True and correct copies of the attached were mailed by the clerk  
to the following:

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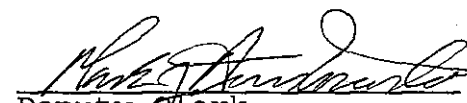
cc:		
Judge	(X ) Rambo	( ) Pro Se Law Clerk
Magistrate Judge	(X ) Smyser	( ) INS
U.S. Marshal	( )	( ) Jury Clerk
Probation	( )	
U.S. Attorney	( )	
Atty. for Deft.	( )	
Defendant	( )	
Warden	( )	
Bureau of Prisons	( )	
Ct Reporter	( )	
Ctroom Deputy	( )	
Orig-Security	( )	
Federal Public Defender	( )	
Summons Issued	( )	with N/C attached to complt. and served by: U.S. Marshal ( ) Pltf's Attorney ( )
Standard Order 93-5	( )	
Order to Show Cause	( )	with Petition attached & mailed certified mail

to: US Atty Gen ( ) PA Atty Gen ( )  
DA of County ( ) Respondents ( )  
Bankruptcy Court ( )  
Other \_\_\_\_\_ ( )

MARY E. D'ANDREA, Clerk

DATE: February 23rd, 2001

BY:

  
Deputy Clerk